

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE DEPARTMENT OF COMMERCE

In the Matter of the Residential Building
Contractor's License of Wayne Evenson,
d/b/a W. A. Evenson Construction,
License No. BC20035570.

**RECOMMENDATION FOR
SUMMARY DISPOSITION**

This matter is before Administrative Law Judge George A. Beck on the Department of Commerce's Motion for Summary Disposition. The Department filed its Motion with the Office of Administrative Hearings on April 11, 2002. The Respondent, Wayne Evenson, failed to file a reply to the Motion.

Scott R. Goings, Assistant Attorney General, NCL Tower, Suite 1200, 445 Minnesota Street, St. Paul, Minnesota 55101-2130, represents the Department of Commerce. Wayne Evenson, 1525 Fiftieth Street Northeast, Murdock, Minnesota 56271, appeared at the prehearing conference representing himself, but failed to file a reply to the Motion.

Based upon all of the filings in this case and for the reasons set out in the accompanying Memorandum.

1. That the Commissioner of Commerce grant the Department's Motion for Summary Disposition.
2. That the Commissioner take disciplinary action against the license of Wayne Evenson.

Dated this 14th day of May 2002.

/s/ George A. Beck
GEORGE A. BECK
Administrative Law Judge

Reported: Taped

NOTICE

This Report is a recommendation, not a final decision. The Commissioner will make the final decision after a review of the record. The Commissioner may adopt, reject or modify the Recommendation for Summary Disposition. Under Minn. Stat. § 14.61, the final decision of the Commissioner shall not be made until this Report has been made available to the parties to the proceeding for at least ten days. An

opportunity must be afforded to each party adversely affected by this Report to file exceptions and present argument to the Deputy Commissioner. Parties should contact Gary A. LaVasseur, Deputy Commissioner, Enforcement and Licensing Division, to ascertain the procedure for filing exceptions or presenting argument.

MEMORANDUM

Wayne Evenson appeared at a prehearing conference in this matter on March 7, 2002. The hearing was scheduled for April 23, 2002, during that prehearing conference. The parties intended to discuss a settlement of this matter, however, they were unable to reach agreement. The Department then filed a Motion for Summary Disposition on April 11, 2002. The Motion advised Mr. Evenson that he was required to serve a copy of his written response within ten working days of receiving the Motion, if he wished to contest it. Additionally, the Administrative Law Judge sent a letter to Mr. Evenson dated April 11, 2002, cancelling the hearing and advising him that his written reply to the Motion was due within ten days.

Since he has failed to reply to the Department's Motion, Mr. Evenson is in default in this proceeding. Since Mr. Evenson failed to dispute any of the facts alleged in the Department's Motion, they can be assumed to be true. The undisputed facts show that Mr. Evenson has at least eight unpaid judgments against him in the total amount of \$58,830.82. These unpaid judgments show that Mr. Evenson is financially irresponsible within the meaning of Minn. Stat. § 326.91, subd. 1(6). He also failed to respond to three separate letters from the Department requesting information and failed to appear in response to an Order to Appear contrary to Minn. Stat. § 45.027, subd. 1(a). It is recommended that the Commissioner grant the Department's Motion for Summary Disposition and take disciplinary action against Evenson's contractor license and consider civil penalties.

G.A.B.